

UNITED STATES DISTRICT COURT

SOUTHERN

DISTRICT OF

CALIFORNIA

In the Matter of the Search of

(Name, address or brief description of person, property or premises to be searched)

One (1) Motorola V3 Cellular Telephone
Serial Number: SJUG0595BA
Silver colored

APPLICATION AND AFFIDAVIT
FOR SEARCH WARRANT

Case Number:

'08 MJ 8015

I, RUSSELL H. VENSK, JR. being duly sworn depose and say:I am a(n) Special Agent with U. S. Immigration & Customs Enforcement and have reason to believe
Official Titlethat ☐ on the person of or ☒ on the property or premises known as (name, description and/or location)

REFER TO ATTACHMENT A

in the SOUTHERN District of CALIFORNIA

there is now concealed a certain person or property, namely (describe the person or property to be seized)

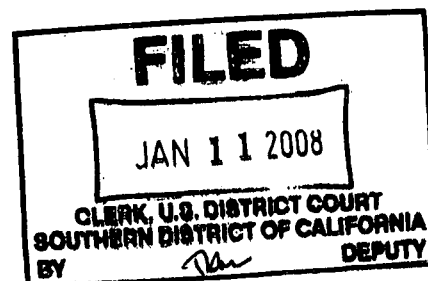
REFER TO ATTACHMENT B

which is (state one or more bases for search and seizure set forth under Rule 41(c) of the Federal Rules of Criminal Procedure)

electronic data that constitutes evidence of a criminal offense, and electronic data which is and
has been used as the means for committing a criminal offense.concerning a violation of Title 21 United States code, Section(s) 841(a)(1), 952 & 960

The facts to support a finding of probable cause are as follows:

REFER TO ATTACHED AFFIDAVIT OF SPECIAL AGENT VENSK.



Continued on the attached sheet and made a part hereof:

☒ Yes☐ No
Signature of Affiant

Sworn to before me and subscribed in my presence,

1/11/08 @ 11:32 am
Date

at

EL CENTROCALIFORNIA
Signature of JudgePeter C. LewisU.S. Magistrate Judge

Name of Judge

Title of Judge

ATTACHMENT A

PREMISES KNOWN AS:

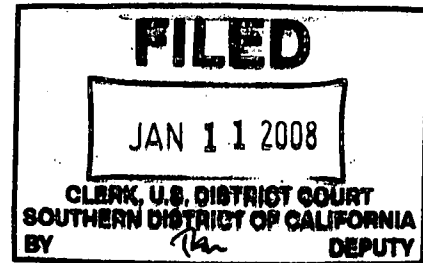
1. Item 1: Motorola V3 cellular telephone, silver-colored. This telephone is identified by serial number SJUG0595BA. The cellular telephone is presently in the custody of ICE Special Agent Russell H. Vensk Jr.

ATTACHMENT B

PROPERTY/ITEMS TO BE SEIZED

The items to be seized are electronic data that constitute evidence of the commission of a criminal offense, and electronic data which is and has been used as the means for committing a criminal offense. The specific criminal offenses involved are violations of Title 21, United States Code, Sections 952 and 960, Importation of a Controlled Substance, and Title 21, United States Code, Sections 841(a)(1), Possession of a Controlled Substance with intent to distribute. The items to be seized include the electronic data described below:

1. The phone numbers and/or direct connect and/or names and identities assigned to the cellular phone;
2. Digital, cellular, and/or telephone numbers and/or direct connect numbers, names and identities stored in the directories;
3. Phone numbers and direct connect numbers dialed from the cellular phone and stored in memory;
4. The last number dialed from the cellular phone and;
5. Any other electronic information in the stored memory of the cellular phone, including but not limited to text messages and voicemail, relating to violations of Title 21, United States Code, Sections 952 and 960, importation of a controlled substance, and Title 21, United States Code, Sections 841(a)(1), possession of a controlled substance with intent to distribute.



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4 UNITED STATES DISTRICT COURT
5 SOUTHERN DISTRICT OF CALIFORNIA

6 In the Matter of the Search of
7 One Motorola V3 cellular telephone
8 Serial Number: SJUG0595BA
Silver-colored

Magistrate Case No.: **'08 MJ 8015**
AFFIDAVIT OF ICE SPECIAL AGENT
RUSSELL H. VENSKE JR., IN SUPPORT
OF SEARCH WARRANT APPLICATION

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10 I, Russell H. Vensk Jr., being first duly sworn, hereby depose and say:

11 PURPOSE

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13 1. This affidavit is made in support of an application for a search warrant for federal agents to
14 search the following cellular telephone for electronic data that constitutes evidence of the
15 commission of a criminal offense, and electronic data which is and has been used as the means for
16 committing a criminal offense: one (1) silver-colored Motorola V3 cellular telephone, serial number
17 SJUG0595BA.
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19 BACKGROUND AND EXPERTISE

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21 2. I am a special agent with United States Immigration and Customs Enforcement (ICE), which
22 is a component agency of the Department of Homeland Security. I have been employed as an ICE
23 special agent since March 1, 2003. Prior to that I was a special agent with the United States
24 Immigration & Naturalization Service since May of 1996. Previously, I was employed as a United
25 States Border Patrol agent from February of 1991 to May of 1996. I have been cross-designated by the
26 United States Drug Enforcement Administration (DEA) to conduct controlled substances
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1 investigations and enforce provisions of the Federal Controlled Substances Act, pursuant to Title 21 of
2 the United States Code.

3 3. As an ICE special agent, I have participated in training programs related to controlled
4 substances, including but not limited to marijuana, cocaine, methamphetamine and heroin. I have
5 also received training in the methods used by controlled substance traffickers to import, distribute,
6 package and conceal controlled substances. Moreover, I have participated in investigations and
7 executed arrests for controlled substances-related offenses, including possession with the intent to
8 distribute, transportation and the importation of controlled substances.

9 4. This statement is made in support of an application for a search warrant to search one cellular
10 telephone that is believed to contain evidence of violations of Title 21, United States Code, Sections
11 952 and 960, Importation of a Controlled Substance, Title 21, United States Code, Sections
12 841(a)(1), Possession of a Controlled Substance with Intent to Distribute.

13 5. This affidavit does not contain all of the information known to federal agents regarding this
14 investigation, but rather, contains only those facts believed to be necessary to establish probable
15 cause.

16 6. Based upon my training and experience as a special agent, consultations with other special
17 agents and law enforcement officers experienced in controlled substance trafficking investigations
18 and all the facts and opinions set forth in this affidavit, I submit the following:

19 a. Controlled substance traffickers will use cellular phones because they are mobile and they
20 have instant access to phone calls and voice messages;

21 b. Controlled substance traffickers believe that cellular phones provide greater insulation and
22 protection against court-ordered wiretaps and they believe in the inability of law enforcement
23 personnel to simultaneously track the originating and destination phone numbers of calls placed to
24 and from their cellular phones;

25 c. Controlled substance traffickers use cellular phones to communicate directly with the
26 drivers of the vehicles that contain the controlled substances. This instant communication allows the
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1 controlled substance traffickers to monitor the movement of the controlled substances from the
2 shipment point to the point of delivery. Cellular phones allow controlled substance traffickers to
3 give directions to the drivers, such as what time to enter into the U.S., which lane to use at the POE,
4 and where to deliver the controlled substances. Controlled substances traffickers either give a
5 cellular phone to the driver or obtain the contact information for the driver's personally owned
6 cellular phone.

7 d. ICE agents will deliver the cellular phone to cellular phone forensic examiners at the ICE
8 special agent-in-charge San Diego forensics group. These examiners may be able to determine the
9 personal identification numbers, turn on the cellular phones, and retrieve data from the cellular
10 phones. Unlike typical computers, cellular phones do not have hard drives and store information in
11 volatile memory. Current technology does not provide solutions for imaging the data stored in
12 cellular phone memory. Consequently, the phones will have to be powered up and turned on by a
13 forensics examiner. The examination may be delayed due to the lack of the appropriate charging
14 device. The examiner will need to manually examine the cellular phones and their functions and
15 record their findings using digital photography. This process is time and labor intensive and,
16 depending upon the workload of the few certified cellular phone forensic examiners available, may
17 take weeks or longer. Therefore, your affiant is requesting that the time for service be extended to
18 thirty days.

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20 **SUMMARY OF INVESTIGATION / FACTS SUPPORTING PROBABLE CAUSE**

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22 7. This affidavit is based on the reports and documents furnished to ICE Special Agent (SA)
23 Russell H. Vensk Jr.

24 8. On December 5, 2007, I, SA Russell H. Vensk Jr., responded to the Calexico, Ca. West Port
25 of Entry (POE) regarding a seizure of cocaine.

26 9. On December 5, 2007, at approximately 1235 hours, Luis Enrique CALDERON-Quinonez, a
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1 citizen of Mexico, entered the U.S. via lane number nine at the Calexico, Ca. West Port of Entry
2 (POE). CALDERON was the driver and sole occupant of a blue 1997 Chevrolet Silverado SUV
3 bearing Baja California, Mx. license plate AHV8149.

4 10. At primary inspection, CALDERON presented his DSP-150 (B1/B2 visa) to Customs &
5 Border Protection Officer (CBPO) Chris Alvarado. CBPO Alvarado asked CALDERON if he was
6 bringing anything from Mexico and where he was going. CALDERON gave a negative customs
7 declaration and said he was going to Calexico to shop at Las Palmas. CBPO Alvarado referred
8 CALDERON and the vehicle to secondary.

9 11. In secondary inspection, CALDERON presented his DSP-150 (B1/B2 visa) and gave a
10 negative customs declaration to CBPO Kathy Rivera. CBPO Rivera then went to request an
11 agricultural specialist to obtain an agriculture declaration from CALDERON.

12 12. Canine Enforcement Officer (CEO) Craig Randolph screened the vehicle with Narcotic
13 Detector Dog (NDD) Pina (CF-24). NDD Pina alerted to the presence of contraband concealed
14 within the rear quarter panels. CEO Randolph informed CBPO Leslie Ledbetter of the alert.

15 13. CBPO Ledbetter then began an inspection of the vehicle. CBPO Ledbetter entered the
16 vehicle and removed the molding and pulled the paneling away from the right rear quarter panel.
17 CBPO Ledbetter reached inside and felt a package. He then exited the vehicle, escorted
18 CALDERON to the vehicle secondary office and conducted a patdown search, which was negative
19 for contraband.

20 14. CBPO Ledbetter returned to the vehicle to continue his inspection. CBPO Ledbetter
21 probed the package and extracted a white powdery substance. At this time, Special Agent (SA)
22 Russell H. Vensk Jr. arrived at the vehicle and told CBPO Ledbetter that ICE special agents were
23 going to allow CALDERON to leave the POE in the vehicle and follow him. CBPO Ledbetter then
24 field-tested the white powdery substance and it field-tested positive for the presence of cocaine.

25 15. At approximately 1350 hrs. CALDERON, who was not informed that cocaine had been
26 found in the vehicle, was allowed to leave the POE in the vehicle and SA Vensk followed him.
27 CALDERON proceeded north on Imperial Ave. and turned left (east) on 3rd St. CALDERON parked
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1 the vehicle on the south side of 3rd St. west of Rockwood Ave. CALDERON exited the vehicle,
2 walked to the sidewalk on the south side of the street, faced west and yelled to somebody. It could
3 not be determined to who CALDERON yelled. CALDERON then briefly talked on his cell phone
4 before returning to the vehicle. CALDERON then proceeded east on 3rd St., turned left (north) onto
5 Heffernan Ave., turned left (west) onto 4th St., and turned right (north) onto Imperial Ave. At 5th
6 St., CALDERON made a u-turn and proceeded south on Imperial Ave. in an attempt to abscond into
7 Mexico. At approximately 1400 hrs., CBPO Ledbetter saw the vehicle heading south at the POE.
8 CBPO Ledbetter motioned for CALDERON to stop and placed a tire deflation device in front of the
9 left front tire. CBPO Ledbetter then approached the vehicle, instructed CALDERON to exit the
10 vehicle and placed him under arrest.

11 16. CBPO Ledbetter then completed his inspection of the vehicle. CBPO Ledbetter found and
12 removed fourteen packages concealed within the right rear quarter panel and twelve packages
13 concealed within the left rear quarter panel. The packages were wrapped in gray duct tape and
14 brown postal tape. CBPO Ledbetter weighed the packages and they had a total net weight of 32.54
15 kgs. (71.58 lbs.).

16 17. On December 5, 2007, SA Vensk inventoried CALDERON's personal property, which
17 consisted of one silver-colored Motorola V3 cellular telephone, serial number SJUG0595BA.

18 **DESCRIPTION OF PROPERTY/ITEMS TO BE SEARCHED**

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20 18. The property/items to be searched are further described as: one (1) silver-colored
21 Motorola V3 cellular telephone, serial number SJUG0595BA.

22 19. The items to be seized from the cellular phone are electronic data that constitute
23 evidence of the commission of a criminal offense, and electronic data that is and has been used as
24 the means for committing a criminal offense. The specific criminal offenses involved are violations
25 of Title 21, United States Code, Sections 952 and 960, Importation of a Controlled Substance and
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1 Title 21, United States Code, Section 841(a)(1), Possession of a Controlled Substance with Intent
2 to Distribute. The items to be seized include the electronic data described below:

3 a. The phone numbers and/or direct connect and/or names and identities assigned to the
4 cellular phone;

5 b. Digital, cellular, and/or telephone numbers and/or direct connect numbers, names and
6 identities stored in the directories;

7 c. Phone numbers and direct connect numbers dialed from the cellular phone and stored in
8 memory;

9 d. The last number dialed from the cellular phone and;

10 e. Any other electronic information in the stored memory of the cellular phone, including but
11 not limited to text messages and voicemail, relating to violations of Title 21, United States Code,
12 Sections 952 and 960, Importation of a Controlled Substance and Title 21, United States Code,
13 Section 841(a)(1), Possession of a Controlled Substance with Intent to Distribute.
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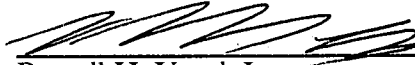
15 CONCLUSION

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17 20. Based on the facts contained in this affidavit and my experience and training, I submit
18 that there is probable cause to believe that one (1) silver-colored Motorola V3 cellular telephone,
19 serial number SJUG0595BA, contains evidence of violations of Title 21, United States Code,
20 Sections 952 and 960, Importation of a Controlled Substance and Title 21, United States Code,
21 Section 841(a)(1), Possession of a Controlled Substance with Intent to Distribute. Further, I
22 believe that the above-described property/items to be seized will be found when this warrant is
23 served and based on the above-listed probable cause, I specifically request authority to seize the
24 items described above and in Attachment B hereto (which is incorporated by reference herein).
25 Therefore, for the reasons set forth in this affidavit and application, I respectfully request that a
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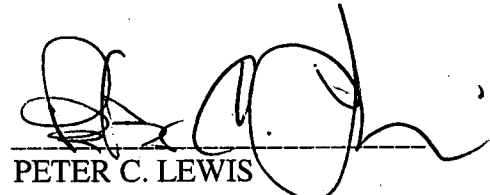
1 search warrant be issued.

2 21. I, or any other duly authorized federal agent, will personally serve the warrant requested
3 above, and will be assisted by other duly authorized federal investigators.

4 I swear the foregoing is true and correct to the best of my knowledge and belief.
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8 Russell H. Vensk Jr.
9 Special Agent
U. S. Immigration & Customs
Enforcement

10 SUBSCRIBED AND SWORN TO BEFORE THIS 11th DAY OF JANUARY 2008.
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14 PETER C. LEWIS
15 U. S. Magistrate Judge
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